

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

CALIFORNIA PUBLIC EMPLOYEES'
RETIREMENT SYSTEM, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

UNITEDHEALTH GROUP INC.,
ANDREW WITTY, STEPHEN
HEMSLEY, and BRIAN
THOMPSON,

Defendants.

Case No. 0:24-cv-01743-JMB-DTS

**DECLARATION OF MICHAEL G.
BONGIORNO IN SUPPORT OF
DEFENDANTS' MOTION TO
DISMISS COMPLAINT**

I, Michael G. Bongiorno, hereby declare under penalty of perjury as follows:

1. I am an attorney with the law firm of Wilmer Cutler Pickering Hale and Dorr LLP, counsel for Defendants UnitedHealth Group Incorporated (“UHG”), Andrew Witty, Stephen Hemsley, and Brian Thompson¹ in the above-captioned action.
2. I am a member in good standing of the State Bar of New York.
3. I submit this Declaration in support of Defendants’ Motion to Dismiss, filed in this action.
4. Attached hereto are true and correct copies of the following exhibits cited in Defendants’ Memorandum of Law in Support of their Motion to Dismiss. I submit this Declaration in order to place before the Court certain documents and information subject to judicial notice and referred to in the Memorandum of Law in Support of Defendants’ Motion to Dismiss.

Exhibit	Document	Basis
1	UHG, Annual Report (Form 10-K), filed with the U.S. Securities and Exchange Commission (“SEC”) on February 15, 2022.	Incorporated by Reference at ¶¶ 8, 25, 89, 148, 148 n.18, 149–50, 163, 183, 190, and 256; ² SEC Filing. ³
2	Stephen Hemsley, Form 4, filed with the SEC on May 12, 2020.	Incorporated by Reference at ¶¶ 213 and 213 n.24; SEC Filing.

¹ The Motion to Dismiss is brought by Defendants UnitedHealth Group Incorporated, Andrew Witty, and Stephen Hemsley. Defendant Brian Thompson is deceased.

² See *Freedman v. St. Jude Med., Inc.*, 4 F. Supp. 3d 1101, 1110–11 (D. Minn. 2014) (courts may consider “documents incorporated into the complaint by reference”) (quoting *Tellabs, Inc. v. Makor Issues & Rights, Ltd.*, 551 U.S. 308, 322 (2007)); *Kushner v. Beverly Enter., Inc.*, 317 F.3d 820, 831 (8th Cir. 2003) (documents are incorporated by reference where the contents of the document are alleged in the complaint and the document’s authenticity is not questioned by any party).

³ See *Trustees of Welfare and Pension Funds of Loc. 464A - Pension Fund v. Medtronic PLC*, 726 F. Supp. 3d 938, 957, n.7 (D. Minn. 2024) (“[I]t is permissible for courts to take judicial notice of SEC filings at the 12(b)(6) stage in securities fraud cases for the purpose of determining what statements the documents contain.”) (quoting *In re Guidant Corp. Sec. Litig.*, 536 F. Supp. 2d 913, 921 (S.D. Ind. 2008)); *In re NVE Corp. Securities Litig.*, 551 F. Supp. 2d 871, 879 (D. Minn. 2007) (considering SEC filings excerpted in Amended Complaint).

3	Stephen Hemsley, Form 4, filed with the SEC on July 20, 2020.	Incorporated by Reference at ¶¶ 213 and 213 n.24; SEC Filing.
4	Stephen Hemsley, Form 4, filed with the SEC on October 27, 2020.	Incorporated by Reference at ¶¶ 213 and 213 n.24; SEC Filing.
5	Stephen Hemsley, Form 4, filed with the SEC on July 28, 2022.	Incorporated by Reference at ¶¶ 216 and 306; SEC Filing.
6	Stephen Hemsley, Form 4, filed with the SEC on October 19, 2023.	Incorporated by Reference at ¶¶ 13, 133, 213 n.23, 217–18, and 306; SEC Filing.
7	Stephen Hemsley, Form 4, filed with the SEC on December 7, 2023.	Incorporated by Reference at ¶¶ 13, 133, 217, 219, and 306; SEC Filing.
8	Brian Thompson, Form 4, filed with the SEC on February 20, 2024.	Incorporated by Reference at ¶¶ 133 and 221; SEC Filing.
9	UHG, Quarterly Report (Form 10-Q), filed with the SEC on August 2, 2023.	Incorporated by Reference at ¶¶ 25 and 145 n.17; SEC Filing.
10	UHG, Quarterly Report (Form 10-Q), filed with the SEC on November 6, 2023.	Incorporated by Reference at ¶¶ 25 and 145 n.17; SEC Filing.
11	Email thread from January 2021 with a subject line of “ORx Data Access Request Form DUR300147.”	Incorporated by Reference at ¶ 207.
12	Excerpt of trial testimony of Peter Dumont, <i>United States v. UnitedHealth Grp. Inc.</i> , 630 F. Supp. 3d 118 (D.D.C. 2022).	Incorporated by Reference at ¶¶ 204, 206, 208.
13	2021 Data Governance Audit Report for UHG.	Incorporated by Reference at ¶ 209.
14	Email from Andrew Witty to Dirk McMahon on January 3, 2022, with a subject line of “FW: 2021 IAAS Technology Data Governance Audit Final Report.”	Incorporated by Reference at ¶ 210.
15	Stephen Hemsley, Form 4, filed with the SEC on October 5, 2021.	SEC Filing.
16	Stephen Hemsley, Form 4, filed with the SEC on January 4, 2024.	SEC Filing.
17	Brian Thompson, Form 4, filed with the SEC on September 23, 2021.	SEC Filing.
18	Brian Thompson, Form 4, filed with the SEC on February 26, 2024.	SEC Filing.
19	Andrew Witty, Form 4, filed with the SEC on June 6, 2022.	SEC Filing.
20	Andrew Witty, Form 4, filed with the SEC on July 19, 2022.	Incorporated by Reference at ¶ 215; SEC Filing.
21	Andrew Witty, Form 4, filed with the SEC on September 23, 2021.	SEC Filing.

22	Andrew Witty, Form 4, filed with the SEC on February 26, 2024.	SEC Filing.
23	Email from Daniel Schumacher to Andrew Witty on March 3, 2021, with a subject line of “Leadership Operating Principles.”	Incorporated by Reference at ¶ 202.
24	Compilation of anonymous survey responses provided on February 21, 2021.	Incorporated by Reference at ¶ 201.
25	UHG’s Code of Conduct, dated 2023.	Incorporated by Reference at ¶ 170 and 177–183
26	Report by Jefferies on February 27, 2024, titled “UNH’s VBC Scale in Certain Markets a Possible Target of Anti-Trust Probe.”	Incorporated by Reference at ¶ 277.
27	Report by RBC on February 27, 2024, titled, “WSJ Reports UNH is the Target of DOJ Anti-Trust Investigation.”	Incorporated by Reference at ¶ 278.
28	Report by UBS on February 28, 2024, titled, “Report of DOJ Antitrust Investigation into UNH Leads to Share Weakness; Our Thoughts.”	Incorporated by Reference at ¶ 280.
29	Article published by Barron’s on February 28, 2024, titled, “United Health Stock Falls After Report Says the Justice Department Has Launched an Antitrust Investigation.”	Incorporated by Reference at ¶ 276.
30	Article published by The Wall Street Journal on February 28, 2024, titled, “UnitedHealth Stock Slides, Weighs on the Dow.”	Incorporated by Reference at ¶ 279.
31	Article published by AIS Health on March 1, 2024, titled, “DOJ to Test UnitedHealth’s ‘Firewall’ with Antitrust Probe.”	Incorporated by Reference at ¶ 281.
32	Article published by Bloomberg on April 11, 2024, titled, “UnitedHealth Chair, Executives Sold \$102 Million in Stock Before US Probe Became Public.”	Incorporated by Reference at ¶ 134, 223, 275.
33	Stephen Hemsley, Form 4, filed with the SEC on October 27, 2021.	Incorporated by Reference at ¶ 213; SEC Filing.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge and belief.

Executed in New York City, New York on this 28th day of February, 2025.

/s/ Michael G. Bongiorno
Michael G. Bongiorno

**WILMER CUTLER PICKERING
HALE AND DORR LLP**

Michael G. Bongiorno*
7 World Trade Center
250 Greenwich Street
New York, NY 10007
michael.bongiorno@wilmerhale.com
Telephone: 212-230-8800
Facsimile: 212-230-8888

Timothy J. Perla*
Sonia Sujanani*
Dan Willey*
60 State Street
Boston, MA 02109
timothy.perla@wilmerhale.com
sonia.sujanani@wilmerhale.com
dan.willey@wilmerhale.com
Telephone: 617-526-6000
Facsimile: 617-526-5000

Faegre Drinker Biddle & Reath LLP

Peter C. Magnuson
Matthew Kilby
Jeffrey P. Justman
Anderson C. Tuggle
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402
peter.magnuson@faegredrinker.com
matthew.kilby@faegredrinker.com
jeff.justman@faegredrinker.com

anderson.tuggle@faegredrinker.com
Telephone: 612-766-7000
Facsimile: 612-766-1600

Counsel for Defendants
** Admitted Pro Hac Vice*